

# HOUSE BILL No. 1190

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2.5-9; IC 8-1-37.

**Synopsis:** Advanced renewable energy contracts. Requires a person that operates an electric grid to: (1) provide priority interconnections between renewable energy facilities and the grid operator's grid; (2) transmit on a priority basis electricity generated by renewable energy facilities that are connected to its grid; and (3) perform necessary grid upgrades to enable the interconnection of renewable energy facilities. Provides that the costs associated with connecting a renewable energy facility to a grid shall be borne by the operator of the renewable energy facility (facility operator). Provides that the costs of any necessary grid updates shall be borne by the grid operator. Requires an energy utility to enter into a contract for the purchase of electricity generated by a renewable energy facility upon the request of the facility operator. Provides that the contract must be for a term of at least 20 years (or at least 40 years for a hydropower facility) and must require the energy utility to purchase electricity from the renewable energy facility: (1) on a priority basis; and (2) at a rate that is not less than the applicable renewable energy rate at the time the contract is entered into. Requires the utility regulatory commission (IURC) to develop and make available a standard contract for use by energy utilities in entering into contracts with facility operators. Provides that an energy utility's obligation to enter into a contract with a facility operator ends after June 30, 2030. Sets forth specific renewable energy rates for electricity generated from the following renewable energy resources: (1) Hydropower. (2) Biogas, other than landfill gas or sewage treatment gas. (3) Landfill gas or sewage treatment gas. (4) Geothermal energy. (5) Wind energy. (6) Solar energy. For each renewable energy resource  
(Continued next page)

**Effective:** Upon passage; July 1, 2010.

**Pierce**

January 7, 2010, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.



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that qualifies for renewable energy rates, sets forth separate rates for: (1) facility operators that receive one or more federal incentives; and (2) facility operators that do not receive one or more federal incentives. Beginning in 2012, requires the IURC to review renewable energy rates every two years to determine if the rates reflect the price needed for the profitable development of renewable energy facilities in Indiana. Provides that if the IURC determines that the rates do not reflect the price needed for the profitable development of renewable energy facilities in Indiana, the IURC may, upon public notice and opportunity for hearing, adjust the rates to reflect a level of profitability that: (1) ensures the rapid deployment of renewable electricity generation; and (2) does not result in excessive profits for facility operators or unnecessary costs to ratepayers. Provides that any rate adjustments made by the IURC apply only to contracts that are entered into after the date of the IURC's order adjusting the rates. Beginning in 2011, requires each energy utility that purchased electricity under contracts with facility operators during the previous calendar year to annually report the following information to the IURC: (1) The total amount of electricity purchased under all of the utility's contracts with facility operators. (2) The price paid for the electricity purchased under the contracts. (3) The total amount of electricity supplied by the utility to all its Indiana customers. Requires the IURC to compile the information submitted by the energy utilities and determine: (1) a statewide ratio of the total amount of electricity purchased under all renewables contracts by all energy utilities to the total amount of electricity supplied to Indiana customers by the purchasing energy utilities; and (2) for each purchasing energy utility, an individual ratio of the energy utility's total purchases under all the utility's renewables contracts to the total amount of electricity supplied by the energy utility to all its Indiana customers. Provides that if an energy utility's individual ratio is less than the statewide ratio, the energy utility must pay to the IURC an equalization charge that reflects the difference between the statewide ratio and the energy utility's ratio. Provides that if an energy utility's individual ratio is greater than the statewide ratio, the IURC must remit to the energy utility an equalization payment that reflects the difference between the energy utility's ratio and the statewide ratio. Establishes the renewable energy equalization fund to be administered by the IURC to receive equalization charges and disburse equalization payments. Requires the IURC to establish a statewide registry of all renewable energy facilities that enter into contracts with energy utilities after June 30, 2010. Requires the IURC to record in the registry certain information with respect to each facility. Requires the IURC to include certain information concerning renewable energy resources in its annual report to the regulatory flexibility committee. Makes an appropriation.

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## HOUSE BILL No. 1190

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-1-2.5-9 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) A regulatory  
3 flexibility committee established under IC 8-1-2.6-4 to monitor  
4 changes in the telephone industry shall also serve to monitor changes  
5 and competition in the energy utility industry.  
6 (b) The commission shall before August 15 of each year prepare for  
7 presentation to the regulatory flexibility committee an analysis of the  
8 effects of competition or changes in the energy utility industry on  
9 service and on the pricing of all energy utility services under the  
10 jurisdiction of the commission. **Beginning in 2011, the commission**  
11 **shall include in its report under this subsection objective data**  
12 **concerning advanced renewable energy contracts under IC 8-1-37,**  
13 **based on:**  
14 (1) **information contained in the registry established and**  
15 **maintained by the commission under IC 8-1-37-25; or**



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**(2) any information otherwise obtained by the commission from a particular energy utility or facility operator (as defined in IC 8-1-37-4).**

(c) In addition to reviewing the commission report prepared under subsection (b), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council before November 1 of each year that are based on a review of the following issues:

(1) The effects of competition or changes in the energy utility industry and the impact of the competition or changes on the residential rates.

(2) The status of modernization of the energy utility facilities in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development of this modernization.

(4) The traditional method of regulating energy utilities and the method's effectiveness.

(5) The economic and social effectiveness of traditional energy utility service pricing.

(6) The effects of legislation enacted by the United States Congress.

(7) All other energy utility issues the committee considers appropriate; however, it is not the intent of this section to provide for the review of the statutes cited in section 11 of this chapter.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(d) This section:

(1) does not give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995;

(2) does not give the committee the authority to order a party to a collective bargaining agreement to cancel, terminate, amend, or otherwise modify the collective bargaining agreement; and

(3) may not be implemented by the committee in a way that would give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995.

(e) The regulatory flexibility committee shall meet on the call of the co-chairs to study energy utility issues described in subsection (c). The committee shall, with the approval of the commission, retain independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the

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consultants shall be paid with funds from the public utility fees assessed under IC 8-1-6.

(f) The legislative services agency shall provide staff support to the committee.

(g) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative members of interim study committees established by the legislative council.

SECTION 2. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 37. Advanced Renewable Energy Contracts**

**Sec. 1. (a) The general assembly makes the following findings:**

(1) The development of a robust and diverse portfolio of electric generating capacity, including the use of renewable energy resources, is necessary if Indiana is to continue to be successful in attracting new businesses and jobs.

(2) The payment of minimum renewable energy rates for electricity generated from renewable energy resources:

(A) ensures a sound long term investment for industries, companies, and individuals investing in renewable energy technologies; and

(B) creates strong economic incentives for those industries, companies, and individuals to make the necessary capital and job creating investments in renewable energy technologies in those jurisdictions that provide such incentives.

(3) Indiana has considerable renewable energy resources that could support the development of new electricity generation.

(4) It is in the public interest for the state to encourage the rapid and sustainable development of renewable energy resources for the generation of electricity in Indiana.

(5) The rapid and sustainable development of renewable energy resources for the generation of electricity will benefit the health, safety, and welfare of Indiana and its citizens by doing the following:

(A) Stimulating the development of new technologies and industries in Indiana and creating new jobs to serve those emerging industries.

(B) Placing Indiana at the forefront of the nation's renewable energy revolution.

(C) Creating an Indiana marketplace for the development

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of and investments in renewable energy resources and technologies.

(D) Opening renewable electricity generation, and the economic opportunities that accompany such generation, to all Indiana citizens.

(E) Providing equitable opportunities for all Indiana citizens to help grow Indiana's renewable energy industry.

(F) Reducing the price volatility and long term costs of electricity.

(G) Reducing air and water pollution and related health problems and health care expenditures.

(H) Protecting Indiana's natural resources.

(I) Reducing greenhouse gas emissions into the atmosphere.

(b) The purpose of this chapter is to:

(1) strengthen Indiana's economy by attracting new businesses and jobs in the growing renewable energy industry; and

(2) enable the rapid and sustainable development of renewable energy resources for the generation of electricity in Indiana by:

(A) providing for priority interconnections of renewable energy facilities to electric grids, including the necessary grid upgrades to allow those interconnections;

(B) providing for priority purchases by energy utilities of electricity generated by renewable energy facilities;

(C) establishing minimum renewable energy rates for purchases described in clause (B) to ensure that the prices paid for the electricity are adequate to ensure the profitable development of renewable energy facilities; and

(D) establishing a statewide equalization system for distributing the costs of the purchases described in clause (B).

Sec. 2. As used in this chapter, "capacity", with respect to a renewable energy facility, means the maximum output of electricity, expressed in kilowatts or megawatts, that the renewable energy facility can supply to an electric system's load, adjusted for ambient conditions.

Sec. 3. As used in this chapter, "energy utility" means a public utility or a municipally owned utility within the meaning of IC 8-1-2-1, or a local district corporation or a general district corporation within the meaning of IC 8-1-13-23, engaged in the

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production, transmission, delivery, or furnishing of electricity.

Sec. 4. As used in this chapter, "facility operator" means a person that owns, operates, manages, or controls a renewable energy facility.

Sec. 5. As used in this chapter, "federal incentive" means any federal tax credit or deduction, or any other federal incentive or subsidy (other than any accelerated depreciation available for tax purposes), that is available in connection with the generation of electricity from a renewable energy resource.

Sec. 6. As used in this chapter, "grid" means interconnected facilities used for the transmission and distribution of electricity for general supply.

Sec. 7. As used in this chapter, "grid operator" means:

- (1) an energy utility; or
- (2) another person;

that owns or operates any part of a grid.

Sec. 8. As used in this chapter, "grid upgrade" means any additions or modifications to a grid that are made:

- (1) at or beyond the point at which a renewable energy facility interconnects to the grid; and
- (2) to accommodate electricity generated by the renewable energy facility and delivered to the grid.

Sec. 9. (a) As used in this chapter, "renewable energy facility" means a facility that:

- (1) is located in Indiana;
- (2) generates electricity solely from a renewable energy resource; and
- (3) is capable of providing electricity directly to a grid.

(b) The term includes the following:

- (1) An alternate energy production facility (as defined in IC 8-1-2.4-2(b)), to the extent that it generates electricity from a renewable energy resource set forth in section 11 of this chapter.
- (2) A small hydro facility (as defined in IC 8-1-2.4-2(e)) at an existing dam.

(c) The term does not include a cogeneration facility (as defined in IC 8-1-2.4-2(c)).

Sec. 10. As used in this chapter, "renewable energy rate" means a rate that:

- (1) an energy utility pays for electricity under a contract entered into under section 13 of this chapter with a facility operator; and

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(2) at the time the contract is entered into, applies to the particular renewable energy resource used to generate the electricity sold to the energy utility under the contract, as determined under sections 14 through 19 of this chapter and as most recently adjusted under section 21 of this chapter.

Sec. 11. As used in this chapter, "renewable energy resource" means any of the following sources for the generation of electricity:

- (1) Wind energy.
- (2) Solar energy.
- (3) Hydropower from existing dams.
- (4) Geothermal energy.
- (5) Energy from organic waste biogas, including any of the following:
  - (A) Methane produced by the biodigestion of farm or animal wastes.
  - (B) Landfill gas.
  - (C) Sewage treatment gas.

The term does not include coal bed methane.

Sec. 12. (a) After June 30, 2010, a grid operator shall:

- (1) provide priority interconnections between renewable energy facilities and the grid operator's grid; and
- (2) transmit on a priority basis electricity generated by any renewable energy facilities that are connected to its grid.

(b) A grid operator has the duty to interconnect a particular renewable energy facility under this section if:

- (1) the grid operator provides transmission or distribution service in a retail electric service area that includes the renewable energy facility;
- (2) the grid operator controls or operates grid facilities technically suitable to receive electricity from the renewable energy facility; and
- (3) there is no other grid with a technically and economically more suitable connection point.

(c) For purposes of subsection (b), a grid is considered technically suitable to receive electricity from a renewable energy facility even if feeding in the electricity produced by the renewable energy facility requires the grid operator to perform grid upgrades. If a grid operated or controlled by a grid operator requires grid upgrades to enable a renewable energy facility to feed in electricity to the grid, the grid operator shall perform the required grid upgrades without undue delay, upon the request of the facility operator seeking to connect a renewable energy facility

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to the grid operator's grid. Except as provided in subsection (d), the obligation to upgrade a grid under this subsection includes the obligation to upgrade:

(1) all technical facilities that are:

(A) required for operating the grid; and

(B) needed for the interconnection; and

(2) all connecting installations that are needed for the interconnection;

that are owned or passed into ownership of the grid operator.

(d) A grid operator's obligation to provide priority interconnection to a renewable energy facility under this section applies even if the capacity of the grid operator's grid is entirely taken up by interconnections with other renewable energy facilities, unless the grid operator does not have a technical facility for reducing feed-in to the grid in the event of a system overload.

(e) The costs associated with:

(1) connecting a renewable energy facility to the technically and economically most suitable connection point on a grid; and

(2) installing the necessary measuring devices for recording the quantity of electricity transmitted and received by the renewable energy facility;

shall be borne by the facility operator. For purposes of this subsection, if one (1) or more renewable energy facilities with a total capacity not exceeding thirty (30) kilowatts is located on a plot of land that already has a connection to the grid operator's grid, that connection is considered the most suitable connection point. If the grid operator establishes a new connection point for the renewable energy facilities, the grid operator shall bear the resulting incremental cost.

(f) The costs associated with any grid upgrades required under subsection (c) shall be borne by the grid operator making the upgrades. The grid operator may take into account the costs of any upgrades made when determining any charges for the use of the grid by the renewable energy facility for which the upgrades are made.

(g) Whenever a renewable energy facility is connected to a grid under this section, the connection and any other installations required for the safe operation of the grid must meet the renewable energy facility's technical requirements. A facility operator may have:

(1) the connection; and

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(2) the installation of any measuring devices for recording the quantity of electricity transmitted and received by the renewable energy facility;  
performed by the grid operator or a third party.

Sec. 13. (a) Except as provided in subsection (e), after June 30, 2010, an energy utility shall, upon the request of a facility operator, enter into a contract for the purchase of electricity generated by the facility operator's renewable energy facility. A contract under this section must:

(1) be for a term of at least:

(A) forty (40) years, in the case of electricity generated from a renewable energy facility that uses hydropower to generate electricity; or

(B) twenty (20) years, in the case of electricity generated from a renewable energy facility not described in clause (A); and

(2) require the energy utility to purchase electricity from the renewable energy facility:

(A) on a priority basis; and

(B) subject to subsection (d) and section 22 of this chapter, at a rate that is not less than the applicable renewable energy rate that:

(i) applies with respect to the particular renewable resource used by the renewable energy facility; and

(ii) is in effect under sections 14 through 19 of this chapter, as most recently adjusted under section 21 of this chapter, at the time the contract is entered into;

throughout the term of the contract.

(b) An energy utility shall offer a standard contract, on a form prescribed by the commission under subsection (c), to a facility operator that seeks to enter into a contract with the energy utility under this section. A standard contract offered under this subsection must set forth:

(1) the rate to be paid for each kilowatt hour of electricity purchased under the contract;

(2) the adjustments to be made to the rate to account for inflation, as prescribed by subsection (d);

(3) the duration of the contract; and

(4) any information concerning the renewable energy facility required by the commission for the statewide registry established under section 25 of this chapter.

Each party to the contract shall sign the contract and retain a

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signed duplicate original of the contract. The energy utility shall submit a copy of the signed contract to the commission not later than seven (7) business days after the contract is signed by both parties.

(c) Not later than June 15, 2010, the commission shall develop and make available a standard contract form for use by energy utilities in entering into contracts with facility operators under this section. The form prescribed by the commission must require the parties to set forth the information described in subsection (b)(1) through (b)(4).

(d) Beginning on the date that is one (1) year after the date on which a contract entered into under this section is signed by the parties, each year during the term of the contract the rate set forth in the contract under subsection (a)(2)(b) increases by a percentage that is not less than the product of:

- (1) the percent increase in the United States Department of Labor Consumer Price Index during the previous calendar year; multiplied by
- (2) six-tenths (0.6).

(e) An energy utility's obligation to enter into a contract with a facility operator under this section does not apply if:

- (1) the capacity of the grid in the electric service area that:
  - (A) includes the facility operator's renewable energy facility; and
  - (B) is served by the energy utility;
 is entirely taken up by electricity generated by other renewable energy facilities that were connected to the grid before the connection or proposed connection of the facility operator's renewable energy facility; and
- (2) the energy utility has no ability to transmit any electricity generated by the facility operator's renewable energy facility to:

- (A) an energy utility; or

- (B) a grid operator;

in an adjacent electric service area.

(f) Subsection (a)(2)(B) does not preclude an energy utility and a facility operator from entering into a contract under this section in which the rate for the electricity purchased under the contract is greater than the applicable renewable energy rate set forth in sections 14 through 19 of this chapter, as most recently adjusted under section 21 of this chapter.

(g) An energy utility's obligation to enter into a contract with a

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1 facility operator under this section ends after June 30, 2030.  
 2 However, an energy utility may enter into a contract to purchase  
 3 electricity from a renewable energy facility under:

4 (1) the terms set forth in this section; or

5 (2) any other terms;

6 at any time.

7 Sec. 14. The renewable energy rate for electricity generated  
 8 from a renewable energy facility that uses hydropower to generate  
 9 electricity:

10 (1) must be based on the price needed for development plus a  
 11 reasonable profit, as determined by the size of the facility; and

12 (2) subject to sections 21 and 22 of this chapter, may not be  
 13 less than the following:

14 (A) If the electricity is generated by a renewable energy  
 15 facility with a capacity of less than ten (10) megawatts:

16 (i) twelve and one-half cents (\$0.125) per kilowatt hour;  
 17 or

18 (ii) eight and eight-tenths cents (\$0.088) per kilowatt  
 19 hour, if the facility operator receives one (1) or more  
 20 federal incentives for the renewable energy facility in  
 21 connection with the generation of electricity.

22 (B) If the electricity is generated by a renewable energy  
 23 facility with a capacity of at least ten (10) megawatts but  
 24 less than fifty (50) megawatts:

25 (i) eleven and one-half cents (\$0.115) per kilowatt hour;  
 26 or

27 (ii) eight cents (\$0.08) per kilowatt hour, if the facility  
 28 operator receives one (1) or more federal incentives for  
 29 the renewable energy facility in connection with the  
 30 generation of electricity.

31 Sec. 15. The renewable energy rate for electricity generated  
 32 from a renewable energy facility that uses biogas, other than  
 33 landfill gas or sewage treatment gas, to generate electricity:

34 (1) must be based on the price needed for development plus a  
 35 reasonable profit, as determined by the size and location of  
 36 the facility; and

37 (2) subject to sections 21 and 22 of this chapter, may not be  
 38 less than the following:

39 (A) If the electricity is generated by a renewable energy  
 40 facility that is located on a farm or an agricultural  
 41 operation (as defined in IC 32-30-6-1) and has a capacity  
 42 of less than one hundred (100) kilowatts:

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(i) eighteen and one-half cents (\$0.185) per kilowatt hour; or

(ii) thirteen cents (\$0.13) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(B) If the electricity is generated by a renewable energy facility that is located on a farm or an agricultural operation (as defined in IC 32-30-6-1) and has a capacity of at least one hundred (100) kilowatts but less than two hundred fifty (250) kilowatts:

(i) seventeen and one-half cents (\$0.175) per kilowatt hour; or

(ii) twelve and three-tenths cents (\$0.123) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(C) If the electricity is generated by a renewable energy facility that is not located on a farm or an agricultural operation (as defined in IC 32-30-6-1) and has a capacity of less than five hundred (500) kilowatts:

(i) fifteen cents (\$0.15) per kilowatt hour; or

(ii) ten and one-half cents (\$0.105) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(D) If the electricity is generated by a renewable energy facility that is not located on a farm or an agricultural operation (as defined in IC 32-30-6-1) and has a capacity of at least five hundred (500) kilowatts but less than ten (10) megawatts:

(i) fourteen cents (\$0.14) per kilowatt hour; or

(ii) nine and eight-tenths cents (\$0.098) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(E) If the electricity is generated by a renewable energy facility that is not located on a farm or an agricultural operation (as defined in IC 32-30-6-1) and has a capacity of at least ten (10) megawatts:

(i) ten cents (\$0.10) per kilowatt hour; or

(ii) seven cents (\$0.07) per kilowatt hour, if the facility

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operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

**Sec. 16. The renewable energy rate for electricity generated from a renewable energy facility that uses landfill gas or sewage treatment gas to generate electricity:**

- (1) must be based on the price needed for development plus a reasonable profit, as determined by the size of the facility; and
- (2) subject to sections 21 and 22 of this chapter, may not be less than the following:

(A) If the electricity is generated by a renewable energy facility with a capacity of less than ten (10) megawatts:

- (i) ten and one-half cents (\$0.105) per kilowatt hour; or
- (ii) seven and three-tenths cents (\$0.073) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(B) If the electricity is generated by a renewable energy facility with a capacity of at least ten (10) megawatts:

- (i) nine and one-half cents (\$0.095) per kilowatt hour; or
- (ii) six and seven-tenths cents (\$0.067) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

**Sec. 17. The renewable energy rate for electricity generated from a renewable energy facility that uses geothermal energy to generate electricity:**

- (1) must be based on the price needed for development plus a reasonable profit, as determined by the size of the facility; and
- (2) subject to sections 21 and 22 of this chapter, may not be less than the following:

(A) If the electricity is generated by a renewable energy facility with a capacity of less than five (5) megawatts:

- (i) nineteen cents (\$0.19) per kilowatt hour; or
- (ii) thirteen cents (\$0.13) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(B) If the electricity is generated by a renewable energy facility with a capacity of at least five (5) megawatts but less than ten (10) megawatts:

- (i) eighteen cents (\$0.18) per kilowatt hour; or

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(ii) twelve cents (\$0.12) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(C) If the electricity is generated by a renewable energy facility with a capacity of at least ten (10) megawatts but less than twenty (20) megawatts:

(i) eleven and one-half cents (\$0.115) per kilowatt hour; or

(ii) eight cents (\$0.08) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(D) If the electricity is generated by a renewable energy facility with a capacity of at least twenty (20) megawatts:

(i) nine cents (\$0.09) per kilowatt hour; or

(ii) six cents (\$0.06) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

**Sec. 18. (a)** The renewable energy rate for electricity generated from a renewable energy facility that uses wind energy to generate electricity must be based on the price needed for development plus a reasonable profit and, subject to sections 21 and 22 of this chapter, may not be less than the following:

(1) If the electricity is generated by an offshore renewable energy facility:

(A) eighteen cents (\$0.18) per kilowatt hour; or

(B) twelve and sixth-tenths cents (\$0.126) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(2) If the electricity is generated by an onshore renewable energy facility that has a rotor swept area that is less than fifty (50) square meters:

(A) thirty-five cents (\$0.35) per kilowatt hour; or

(B) twenty-four and one-half cents (\$0.245) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(3) If the electricity is generated by an onshore renewable energy facility that has a rotor swept area that is at least fifty

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(50) square meters but less than five hundred (500) square meters:

(A) twenty-five cents (\$0.25) per kilowatt hour; or

(B) seventeen and one-half cents (\$0.175) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(4) If the electricity is generated by an onshore renewable energy facility that has a rotor swept area that is at least five hundred (500) square meters:

(A) during years one (1) through (5) of a contract entered into under section 13 of this chapter:

(i) fourteen cents (\$0.14) per kilowatt hour; or

(ii) nine and eight-tenths cents (\$0.098) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity; and

(B) for each year beginning with the sixth year of a contract entered into under section 13 of this chapter, a rate that:

(i) is based on the renewable energy facility's average specific yield in kilowatt hours per square meter per year (kwh/m<sup>2</sup>/year) of rotor swept area as determined under subsection (b); and

(ii) is not less than the applicable amount specified in subsection (c).

(b) The average specific yield for a renewable energy facility described in subsection (a)(4) equals the amount determined under STEP FOUR of the following formula:

**STEP ONE:** Determine the total amount of all electricity generated by the renewable energy facility (including electricity that was generated and not purchased under the contract entered into under section 13 of this chapter), expressed in kilowatt hours, during each of the first five (5) years of the contract entered into under section 13 of this chapter.

**STEP TWO:** Determine the sum of the amounts determined under STEP ONE, excluding the amounts for:

(A) the year in which the renewable energy facility generated the greatest amount of electricity; and

(B) the year in which the renewable energy facility generated the least amount of electricity.

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**STEP THREE: Determine the quotient of:**

- (A) the STEP TWO amount; divided by
- (B) three (3).

**STEP FOUR: Determine the quotient of:**

- (A) the STEP THREE amount; divided by
- (B) the renewable energy facility's rotor swept area.

(c) Subject to sections 21 and 22 of this chapter, in each year beginning with the sixth year of a contract entered into under section 13 of this chapter, the renewable energy rate for electricity generated from a renewable energy facility described in subsection (a)(4) may not be less than the following:

(1) For a renewable energy facility with an average specific yield that is less than six hundred fifty kilowatt hours per square meter per year (650 kwh/m<sup>2</sup>/year):

- (A) fourteen cents (\$0.14) per kilowatt hour; or
- (B) nine and eight-tenths cents (\$0.098) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(2) For a renewable energy facility with an average specific yield that is at least one thousand two hundred kilowatt hours per square meter per year (1,200 kwh/m<sup>2</sup>/year):

- (A) eight and four-tenths cents (\$0.084) per kilowatt hour; or
- (B) five and nine-tenths cents (\$0.059) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(3) For a renewable energy facility with an average specific yield that is:

- (A) at least six hundred fifty kilowatt hours per square meter per year (650 kwh/m<sup>2</sup>/year); and
- (B) less than one thousand two hundred kilowatt hours per square meter per year (1,200 kwh/m<sup>2</sup>/year);

a rate that is a linear interpolation between the minimum rates set forth in subdivisions (1) and (2).

**Sec. 19. The renewable energy rate for electricity generated from a renewable energy facility that uses solar energy to generate electricity:**

- (1) must be based on the price needed for development plus a reasonable profit, as determined by the size and location of the facility; and

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(2) subject to sections 21 and 22 of this chapter, may not be less than the following:

(A) If the electricity is generated by a renewable energy facility with a capacity of less than ten (10) kilowatts, regardless of whether the renewable energy facility is ground-mounted or is located on a rooftop:

- (i) sixty-five cents (\$0.65) per kilowatt hour; or
- (ii) forty-five and one-half cents (\$0.455) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(B) If the electricity is generated by a ground-mounted renewable energy facility with a capacity of at least ten (10) kilowatts but less than ten (10) megawatts:

- (i) forty cents (\$0.40) per kilowatt hour; or
- (ii) twenty-eight cents (\$0.28) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(C) If the electricity is generated by a renewable energy facility that is located on a rooftop and has a capacity of at least ten (10) kilowatts but less than two hundred fifty (250) kilowatts:

- (i) sixty cents (\$0.60) per kilowatt hour; or
- (ii) forty-two cents (\$0.42) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(D) If the electricity is generated by a renewable energy facility that is located on a rooftop and has a capacity of at least two hundred fifty (250) kilowatts but less than five hundred (500) kilowatts:

- (i) fifty-five cents (\$0.55) per kilowatt hour; or
- (ii) thirty-eight and one-half cents (\$0.385) per kilowatt hour, if the facility operator receives one (1) or more federal incentives for the renewable energy facility in connection with the generation of electricity.

(E) If the electricity is generated by a renewable energy facility that is located on a rooftop and has a capacity of at least five hundred (500) kilowatts:

- (i) fifty cents (\$0.50) per kilowatt hour; or
- (ii) thirty-five cents (\$0.35) per kilowatt hour, if the

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1 facility operator receives one (1) or more federal  
 2 incentives for the renewable energy facility in connection  
 3 with the generation of electricity.

4 Sec. 20. (a) Electricity that is fed into an energy utility's  
 5 distribution system from more than one (1) renewable energy  
 6 facility may be measured and billed through a shared metering  
 7 device. Except as provided in subsection (b), if electricity fed into  
 8 an energy utility's distribution system from more than one (1)  
 9 renewable energy facility is measured and billed through a shared  
 10 metering device, the capacity of each renewable energy facility  
 11 shall be used in determining the amount of electricity to be  
 12 apportioned to each renewable energy facility.

13 (b) If:

14 (1) electricity is fed into an energy utility's distribution system  
 15 from more than one (1) renewable energy facility that uses  
 16 wind energy to generate electricity;

17 (2) the electricity fed in from the renewable energy facilities  
 18 described in subdivision (1) is measured and billed through a  
 19 shared metering device; and

20 (3) at least two (2) of the renewable energy facilities described  
 21 in subdivision (1) are subject to different renewable energy  
 22 rates under section 18 of this chapter;

23 the total amount of electricity measured shall be allocated  
 24 proportionally among the renewable energy facilities described in  
 25 subdivision (1) according to their average specific yields.

26 Sec. 21. (a) Every two (2) years, beginning in 2012, the  
 27 commission shall review the rates set forth in sections 14 through  
 28 19 of this chapter, as most recently adjusted under this section, to  
 29 determine if the then current rates reflect the price needed for the  
 30 profitable development of renewable energy facilities in Indiana.  
 31 In making the determination required under this section, the  
 32 commission shall consider whether the rates reflect a level of  
 33 profitability that:

34 (1) ensures the rapid deployment of renewable sources of  
 35 electricity generation; and

36 (2) does not result in:

37 (A) excessive profits for facility operators; or

38 (B) unnecessary costs to ratepayers.

39 (b) If, in conducting the review required under subsection (a),  
 40 the commission determines that the rates set forth in sections 14  
 41 through 19 of this chapter, as most recently adjusted under this  
 42 section, do not reflect the price needed for the profitable

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development of renewable energy facilities in Indiana, the commission may, upon public notice and opportunity for hearing by interested parties, adjust the then current rates to reflect a level of profitability that:

(1) ensures the rapid deployment of renewable sources of electricity generation; and

(2) does not result in:

(A) excessive profits for facility operators; or

(B) unnecessary costs to ratepayers.

(c) Any rate adjustments made by the commission under subsection (b) apply only to contracts under section 13 of this chapter that are entered into after the date of the commission's order adjusting the rates.

Sec. 22. (a) If:

(1) at the time a facility operator enters into a contract with an energy utility under section 13 of this chapter, the facility operator does not receive any federal incentives for the generation of electricity by the facility operator's renewable energy facility; and

(2) at any time during the term of the contract, the facility operator begins receiving one (1) or more federal incentives for the generation of electricity by the facility operator's renewable energy facility;

the facility operator shall provide to the commission and to the electric utility written notice, on a form prescribed by the commission, of the federal incentives received. The facility operator shall provide the notice required by this subsection not later than seven (7) business days after the effective date of the federal incentives received. The renewable energy rates set forth in the contract entered into by the facility operator and the energy utility shall be adjusted to reflect the rates that apply to a facility operator that receives federal incentives, as set forth in sections 14 through 19 of this chapter, and as most recently adjusted under section 21 of this chapter, effective as of the effective date of the federal incentives received.

(b) If:

(1) at the time a facility operator enters into a contract with an energy utility under section 13 of this chapter, the facility operator receives one (1) or more federal incentives for the generation of electricity by the facility operator's renewable energy facility; and

(2) at any time during the term of the contract, the facility

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operator no longer receives any federal incentives for the generation of electricity by the facility operator's renewable energy facility;

the facility operator may provide to the commission and to the electric utility written notice, on a form prescribed by the commission, that the facility operator no longer receives any federal incentives for the generation of electricity by the facility operator's renewable energy facility. If the facility operator provides the notice described in this subsection, the renewable energy rates set forth in the contract entered into by the facility operator and the energy utility shall be adjusted to reflect the rates that apply to a facility operator that does not receive federal incentives, as set forth in sections 14 through 19 of this chapter, and as most recently adjusted under section 21 of this chapter, effective as of the termination date of the last federal incentive received by the operator for the generation of electricity by the facility operator's renewable energy facility.

(c) A facility operator that enters or seeks to enter into a contract with an energy utility under section 13 of this chapter may, at the time of entering into the contract or at any time during the term of the contract, claim and receive, or cease to claim and receive, either of the following without an adjustment in the applicable renewable energy rate under sections 14 through 19 of this chapter, as most recently adjusted under section 21 of this chapter, or under the terms of the contract with the energy utility, whichever applies:

(1) State tax credits, state tax deductions, or other state incentives or subsidies that are available in connection with the generation of electricity from renewable energy resources, if not otherwise prohibited by the state law, rule, or program establishing the incentives.

(2) Incentives offered by an energy utility in connection with the generation of electricity from renewable energy resources, if not otherwise prohibited by the energy utility's program establishing the incentives.

(d) An energy utility that enters into a contract with a facility operator under section 13 of this chapter is not exempt from any binding federal or state renewable energy portfolio standard that applies or may come into effect during the term of the contract. However, any credit or allowance for renewable electricity generation needed to comply with any federal or state renewable energy portfolio standard belongs to the energy utility that

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purchases electricity under the contract and may not be claimed by the facility operator supplying the electricity under the contract, unless otherwise specified by federal or state law.

**Sec. 23. (a)** Beginning in 2011, not later than March 1 of each year, an energy utility that purchased electricity during the immediately preceding calendar year from a facility operator under a contract entered into under section 13 of this chapter shall report to the commission, on a form prescribed the commission, the following information for all the energy utility's contracts under section 13 of this chapter that were in effect during the immediately preceding calendar year:

(1) The total amount of electricity, expressed in kilowatt hours, purchased under all the energy utility's contracts entered into under section 13 of this chapter during the immediately preceding calendar year.

(2) The total amount paid by the energy utility for the electricity described in subdivision (1).

(3) The total amount of electricity, expressed in kilowatt hours, supplied by the energy utility to all its Indiana customers during the immediately preceding calendar year.

**(b)** Beginning in 2011, not later than July 1 of each year, the commission shall compile the information submitted by all energy utilities under subsection (a) and shall determine the following:

(1) The statewide ratio of the total electricity purchased from renewable energy facilities by energy utilities to the total electricity supplied to all Indiana customers by those energy utilities, with respect to the immediately preceding calendar year, determined as follows:

**STEP ONE:** Determine the sum of all amounts reported by all energy utilities under subsection (a)(1) with respect to the immediately preceding calendar year.

**STEP TWO:** Determine the sum of all amounts reported by all energy utilities under subsection (a)(3) with respect to the immediately preceding calendar year.

**STEP THREE:** Determine the quotient of:

(A) the STEP ONE amount; divided by

(B) the STEP TWO amount.

(2) For each energy utility that submitted a report under subsection (a), the ratio of the total electricity purchased from renewable energy facilities by the energy utility to the total electricity supplied to all Indiana customers by the energy utility, with respect to the immediately preceding calendar

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year, determined by calculating the quotient of:

(A) the amount reported by the energy utility under subsection (a)(1); divided by

(B) the amount reported by the energy utility under subsection (a)(3).

(3) The sum of the amounts reported by all energy utilities under subsection (a)(2).

(c) For each energy utility that submitted a report under subsection (a), the commission shall compare the ratio calculated for the energy utility under subsection (b)(2) to the statewide ratio calculated under subsection (b)(1). If an energy utility's ratio calculated under subsection (b)(2) is less than the statewide ratio calculated under subsection (b)(1), the commission shall assess the energy utility an equalization charge in an amount equal to the difference between:

(1) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

(B) the statewide ratio calculated by the commission under subsection (b)(1); minus

(2) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

(B) the energy utility's ratio calculated by the commission under subsection (b)(2).

Not later than August 1 of the same year in which the commission makes the calculations described in subsection (b), the commission shall send an energy utility whose ratio calculated under subsection (b)(2) is less than the statewide ratio calculated under subsection (b)(1) a notice of the equalization charge due, as calculated under this subsection. The notice must specify that the equalization charge must be paid to the commission not later than thirty (30) days after the date of the commission's notice, for deposit by the commission in the renewable energy equalization fund established by section 24 of this chapter.

(d) The commission shall immediately deposit all equalization charges received under subsection (c) into the renewable energy equalization fund established by section 24 of this chapter.

(e) If, in comparing the ratio calculated for an energy utility under subsection (b)(2) to the statewide ratio calculated under subsection (b)(1), as required by subsection (c), the commission determines that the energy utility's ratio calculated under

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subsection (b)(2) is greater than the statewide ratio calculated under subsection (b)(1), the commission shall make an equalization payment to the energy utility in an amount equal to the difference between:

(1) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

(B) the energy utility's ratio calculated by the commission under subsection (b)(2); minus

(2) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

(B) the statewide ratio calculated by the commission under subsection (b)(1).

The commission shall remit the equalization payment determined under this subsection to the energy utility not later than November 1 of the same year in which the commission makes the calculations described in subsection (b). An equalization payment remitted to an energy utility under this subsection shall be paid from the renewable energy equalization fund established by section 24 of this chapter.

(f) The commission may adopt rules under IC 4-22-2 to implement this section.

Sec. 24. (a) The renewable energy equalization fund is established to receive equalization charges and disburse equalization payments under this chapter. The fund shall be administered by the commission.

(b) The fund consists of money deposited in the fund by the commission under section 23(d) of this chapter.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 25. (a) Not later than June 1, 2011, the commission shall establish a statewide registry of all renewable energy facilities that enter into contracts with energy utilities under section 13 of this chapter after June 30, 2010. Based on the information contained in the standard contracts submitted to the commission under section

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1 13(b) of this chapter, and on any information obtained  
 2 independently by the commission from a particular facility  
 3 operator, the commission shall record in the registry the following  
 4 information for each renewable energy facility:

- 5 (1) The facility operator for the renewable energy facility.
- 6 (2) The type of renewable energy resource used by the  
 7 renewable energy facility to generate electricity.
- 8 (3) The capacity of the renewable energy facility.
- 9 (4) The location of the renewable energy facility.
- 10 (5) The number of contracts entered into under section 13 of  
 11 this chapter under which the renewable energy facility  
 12 supplies electricity.
- 13 (6) Any technical specifications concerning the renewable  
 14 energy facility that the commission may require.

15 (b) The commission shall require a facility operator, or the  
 16 facility operator's successor in interest, to notify the commission in  
 17 a timely manner if any of the information described in subsection  
 18 (a) with respect to the facility operator's renewable energy facility  
 19 changes. The commission shall require a facility operator that has  
 20 one (1) or more renewable energy facilities included in the registry  
 21 established under subsection (a) to provide an annual report, on a  
 22 form prescribed by the commission, providing updated  
 23 information on each of the facility operator's renewable energy  
 24 facilities that is included in the registry.

25 (c) The commission shall update the registry on a timely basis  
 26 upon receiving:

- 27 (1) a standard contract entered into under section 13(b) of this  
 28 chapter; or
- 29 (2) an annual report or a notice of change in information from  
 30 a facility operator under subsection (b).

31 (d) The commission shall make the registry established under  
 32 subsection (a) available:

- 33 (1) for public inspection and copying at the offices of the  
 34 commission under IC 5-14-3; and
- 35 (2) on the commission's web site.

36 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this  
 37 SECTION, "commission" refers to the Indiana utility regulatory  
 38 commission created by IC 8-1-1-2.

39 (b) Notwithstanding IC 8-1-37-23(f), as added by this act, the  
 40 commission may adopt any rules to implement IC 8-1-37-23, as  
 41 added by this act, in the same manner as emergency rules are  
 42 adopted under IC 4-22-2-37.1. Any rules adopted under this

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1     **SECTION must be adopted not later than January 1, 2011. A rule**  
 2     **adopted under this SECTION expires on the earlier of:**  
 3         **(1) the date the rule is adopted by the commission under**  
 4         **IC 4-22-2-24 through IC 4-22-2-36 to implement IC 8-1-37, as**  
 5         **added by this act; or**  
 6         **(2) January 1, 2012.**  
 7     **(c) This SECTION expires January 1, 2012.**  
 8     **SECTION 4. An emergency is declared for this act.**

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